

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 7/18/2022

-----X
:
BRAULIO THORNE *on behalf of himself and all other* :
persons similarly situated, :
:
Plaintiff, : 19-cv-10100 (LJL)
:
-v- : ORDER
:
BOB'S DISCOUNT FURNITURE, LLC, :
:
Defendant. :
-----X

LEWIS J. LIMAN, United States District Judge:

The Court stayed this case pending a decision by the Second Circuit on appeals before it concerning the same issues and arguments raised in this case. Dkt. No. 30.

On June 2, 2022, the Second Circuit issued a decision in the consolidated appeal *Calcanao v. Swarovski N. Am. Ltd.*, No. 20-1552, 2022 WL 1788305 (2d Cir. June 2, 2022). In *Calcanao*, the Second Circuit held that plaintiffs' "conclusory claims" that they intended to return to Defendants' stores were not sufficient to allege standing. *Id.* at *6. The mandate has now issued. See *Calcanao v. Swarovski*, No. 19-cv-10536-GHW, at ECF. No. 30.

It is hereby ORDERED that within 30 days of this Order, Plaintiff shall submit a letter indicating whether he intends to amend his complaint in light of the Second Circuit's decision in *Calcanao* or whether he will stand on his original complaint. If Plaintiff intends to amend his complaint, he shall have 45 days after the issuance of this Order to do so. In the event that Plaintiff amends his complaint, Defendant may either move against the amended complaint or may answer.

The Clerk of Court is respectfully directed to lift the stay in this case.

SO ORDERED.

Dated: July 18, 2022
New York, New York


LEWIS J. LIMAN
United States District Judge